

GOA STATE INFORMATION COMMISSION

'Kamat Towers', Seventh Floor, Patto, Panaji – Goa

Appeal No. 21/SCIC/2016

Mr. Bharat Candolkar,
Vady, Candolim,
Bardez-Goa.

... Appellant

V/S

- 1) Public Information Officer,
Mr. Madhu G. Narvekar,
Mamlatdar of Bardez
Mapusa-Goa.
- 2) The First Appellate Authority,
Deputy Collector of Bardez,
Mapusa-Goa.

... Respondents

CORAM : Shri. Prashant S. P. Tendolkar State Chief Information Commissioner
Smt. Pratima K. Vernekar, State Information Commissioner,

Filed on: 12/02/2016

Decided on 15/11/2016

FACTS:

a) By his application, dated 08/04/2015 filed under section 6(1) of the Right to information act 2005(Act), the appellant herein sought from Dy. Collector Bardez, information in the form of certified copies to his 8 points. The said application was transferred by Dy. Collector to the Respondent No.1 herein under section 6(3) of the act being the PIO of the Public Authority holding the said information. This transfer of the said application was made on 17/06/2015.

b) In spite of the said transfer the Respondent No.1 as the PIO did not furnish the information within time and hence the appellant filed the first appeal to the Respondent No.2 on 17/08/2015 who disposed the same on 30/11/2015 with a direction to furnish the information as was sought by the appellant.

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c) According to the appellant inspite of the said order of the Respondent No.2, till date the information is not furnished and hence the appellant has approached this Commission by this second appeal under section 19 (3) of the act.

d) Notices of the appeal were issued to the parties. Initially on 05/07/2016 Shri Pravin Gawas from the office of Respondent 2, remained present so also Respondent No.1 also remained present on the same date. But subsequently they remained absent continuously. In spite of giving sufficient opportunity to the respondents, no reply was filed nor any arguments were advanced and hence the arguments of the appellant were heard.

e) Adv. Mandrekar, appearing for appellant in his arguments, by narrating the facts as pleaded in the appeal memo and by raising the grounds as contained therein, submitted that the entire action of the PIO in not furnishing the information is malafide and hence cannot be protected under the act. He submitted that the information as sought vide the application dated 08/04/2015 are the records held by the public authorities and appellant is entitled to have the same which is purposely not furnished. He submitted that the delay in furnishing information and the malafide involved make the PIO liable for penalty and also compensation, besides disciplinary proceeding under the act.

FINDINGS:

a) We have perused the records and also the argument as advanced by the appellant.

b) The facts and the grounds as raised in the appeal memo are not disputed by the Respondents by filing any reply and hence we have no hesitation to consider that the facts as pleaded in the present appeal.

c) By application under section 6(1) of the act, the appellant has sought for certified copies of various public documents which the appellant contended as are in the record of the Respondent No.1. It is not the case of the Respondent that the said records are held by any other public authority as no such correspondence is filed on record. The said documents which are on records does not come under the exceptions contained in section 8 or 9 of the act. In the circumstances we find that the appellant, as a seeker is entitled to have the said information from the Respondent No.1.

d) Coming to the malafide in non furnishing of the information by the PIO, we find that on receipt of the application from the transferor i.e. Dy. Collector, Bardez on in 17/06/2015, the transferee i.e. the PIO, Respondent No.1 herein did not respond to the said request as required under section 7(1) of the act. Over and above the same, by the order passed by the First Appellate Authority on 30/11/2015, the Respondent No.1 was directed to furnish the information. In spite of the direction issued by the Senior officer, the PIO has failed to comply with the said order. From this conduct of the PIO, we find great force in the submission of Adv. A. Mandrekar that the denial of request by the PIO was malafide. This makes us prima facie to hold that there are reasonable grounds to inquire in the present conduct of the PIO and to penalize him.

e) In the aforesaid circumstances we dispose the present appeal with the following

ORDER

The appeal is allowed. The PIO is directed to furnish to the appellant the entire information in the form and as sought for by the

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appellant vide his application dated 08/04/2015, free of cost with in a period of 10 days from the date of receipt of this order by him.

PIO is directed to show cause as to why penalty as contemplated under section 20(1) and/or 20(2) of the Right to Information Act 2005 should not be initiated against him. The PIO shall file the reply personally on 04/01/2017 at 10.30 am.

Parties to be notified.

Pronounced in the open proceeding.

Appeal stands disposed off accordingly.

Sd/-

(Prashant S. P. Tendolkar)

State Chief Information Commissioner
Goa State Information Commission,
Panaji-Goa

Sd/-

(Pratima K. Vernekar)

State Information Commissioner
Goa State Information Commission,
Panaji-Goa

